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Response After Final
Expedited Procedure - Examining Group 2876

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

RANDY J. TEMPLETON et al.

Group Art Unit: 2876

Examiner: Lisa M. Caputo

Serial No.: 09/634,901

Filed: August 9, 2000

For: POINT OF SALE PAYMENT TERMINAL

Attorney Docket No.: FDC 0158 PUS

10/Response
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Extension
Time
(1 mo)
J Mackey
12-4-02

**RESPONSE AFTER FINAL
AND PETITION FOR EXTENSION OF TIME
UNDER 37 C.F.R. § 1.136(a)**

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Sir:

Applicant hereby petition for a one (1) month extension of time to respond to the Office Action dated August 14, 2002, thereby extending the time period within which to respond to December 14, 2002.

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This is a response to the final Office Action mailed August 14, 2002.

Applicants respectfully request reconsideration of the final rejection of claims 1-11 and 13-23 for the reasons set forth below.

CERTIFICATE OF MAILING UNDER 37 C.F.R. § 1.8

I hereby certify that this paper, including all enclosures referred to herein, is being deposited with the United States Postal Service as first-class mail, postage pre-paid, in an envelope addressed to: Box AF, Commissioner for Patents, United States Patent and Trademark Office, Washington, D.C. 20231 on:

November 18, 2002
Date of Deposit

Jeremy J. Curcuri
Name of Person Signing

Jeremy J. Curcuri
Signature

Remarks

Claims 1-23 are pending in this application. Claim 12 has been allowed. Claims 1-11 and 13-23 stand rejected.

Applicants' invention relates to point of sale devices and point of sale transactions. Page 1, lines 8-9. In conventional point of sale devices, each point of sale device typically has limited functionality. If a merchant desires to have enhanced point of sale capabilities, multiple devices are required. If more than a single point of sale function is required, these multiple devices take up valuable counter space. Page, 1, lines 11-26.

Applicants have recognized the problem faced by the merchant and that the merchant is forced to make a trade off between having additional and enhanced capability at the point of sale, and having more available counter space for small items that are commonly bought as a customer is about to check out. Page 1, lines 22-26. Applicants' invention provides, among other features, an integrated point of sale payment terminal for processing multiple payment types, located at the point of sale during use to allow a store merchant to accept multiple payment types with a single payment terminal.

The Examiner has rejected claims 1-4, 6-7, 9, 11, 21, and 23 under 35 U.S.C. § 103(a) as being unpatentable over Templeton (U.S. Patent No. 5,679,940) in view of Funk (U.S. Patent No. 5,832,463). Claim 1 recites an integrated point of sale payment terminal for processing multiple payment types including payment by check, wherein the payment terminal is located at the point of sale during use to allow a store merchant to accept multiple payment types. The payment terminal comprises a compact housing having a base shaped to sit on a merchant's counter and having a document slot for receiving a check, a processor disposed in the housing, and a memory in communication with the processor. The payment terminal further comprises a magnetic ink character recognition device and an imaging device. The magnetic ink character recognition device is for reading a string of magnetic ink characters on the check, and is affixed to the housing at the document slot and in communication with the

processor. The imaging device is for capturing an image of the check, and is affixed to the housing at the document slot in communication with the processor. The processor is programmed to process multiple payment types including processing a checking account transaction when the check is placed in the document slot.

Templeton describes a transaction system with on/off line risk assessment. The Examiner acknowledges that the Templeton point of sale terminal lacks an imaging device. Templeton does describe check verification and check guarantee services. However, Templeton offers no specific discussion of electronic check conversion or electronic check acceptance. Based on the specific teachings recited in Templeton, only check guarantee/verification services are being performed and the paper check is still required by the merchant to complete the transaction by depositing the paper check at the bank.

Funk describes a system and method for checkless check transactions, and includes an imaging device. The Examiner proposes to modify Templeton in view of Funk to incorporate the imaging device taught by Funk into the terminal of Templeton. Applicants believe that there is no motivation to combine Funk with Templeton to achieve the claimed invention. Specifically, Templeton only discusses check guarantee/verification services and the paper check is still required in Templeton to complete the transaction. Accordingly, there is no suggestion or motivation to modify Templeton to include an imaging device to capture an image for electronic check acceptance because the actual check remains present in Templeton after completion of the transaction. After all, Templeton fails to offer any specific discussion of electronic check conversion or electronic check acceptance so there is no motivation to add an imaging device to Templeton.

In the Final Office Action mailed August 14, 2002, the Examiner responds to previous arguments made by Applicants by stating that:

It would have been obvious to one of ordinary skill in the art at the time the invention was made to employ technologically advanced security measures such as an image of the check for further reference and correct data input. Also, it is favorable to

have different components to a machine in case another component malfunctions. In addition, it is favorable to decrease paper consumption.

The Examiner further states that Funk "teaches a magnetic ink character recognition component, which reads information from the physical check."

The Examiner acknowledges Applicants' argument that there is no suggestion to combine the references to achieve the claimed invention because the physical check remains present in the device of Templeton (after completion of the transaction). In response to Applicants' argument, the Examiner goes on to state that "it is stated in [Applicants'] claim 1 that there is a magnetic ink character recognition device for reading information from the check, which intimates that there is indeed a physical check present in the instant application." Applicants do not disagree as to the fact that there is an actual check present in the present application that is processed by the integrated point of sale payment terminal. However, claim 1 recites a specific combination of features that makes the integrated point of sale payment terminal suitable for processing multiple payment types. The recited imaging device for capturing the image of the check makes it possible for the integrated point of sale payment terminal to perform electronic check conversion. During electronic check conversion, which is achievable with the combination of features recited by claim 1 including the imaging device for capturing the image of the check, the paper check, although initially physically present, may be returned to the customer once electronic check conversion has taken place. In contrast, Templeton offers no specific discussion of electronic check conversion. In Templeton, the actual physical check is initially present and remains present in Templeton after completion of the transaction because there is no electronic check conversion or electronic check acceptance in Templeton. In Templeton, the check, after completion of the transaction, must remain in the possession of the merchant to complete the transaction by depositing the paper check at the bank as opposed to returning it to the customer as is done in electronic check conversion with the integrated point of sale payment terminal recited by claim 1. The integrated point of sale payment terminal recited by claim 1 makes electronic check conversion possible in an integrated point of sale payment terminal because of the specific combination of recited

structures and functions. Templeton offers no specific discussion of electronic check conversion or electronic check acceptance, and as such, there is no motivation to add specific features to the Templeton terminal to allow for electronic check conversion or electronic check acceptance. Because there is no motivation to modify Templeton in such a way to make Templeton suitable for electronic check conversion, there is no motivation to modify Templeton to achieve the claimed invention as recited by claim 1. More specifically, Templeton in view of Funk fails to suggest the invention as recited by claim 1.

Claims 2-4, 6-7, and 9 are believed to be patentable for their dependency upon claim 1.

Regarding claim 11, Applicants reiterate that there is no motivation to combine the relied upon references to achieve the claimed invention. In addition, the proposed combination still fails to describe or suggest processing the transaction as an electronic debit when the status is eligible, and otherwise, processing the transaction as a paper check as recited by claim 11. In the Final Office Action mailed August 14, 2002, the Examiner responds to previous arguments by Applicants by stating that "Templeton does indeed teach the elements of processing the transaction in that Templeton teaches a verification system with algorithms in order to discern if the status of the check is eligible to debit money." What Templeton teaches is a verification system for check verification and check guarantee services. In contrast, claim 11 recites processing the transaction as an electronic debit when the status is eligible, and otherwise, processing the transaction as a paper check. Templeton does not discuss processing the transaction as an electronic debit let alone the specific features recited by claim 11. The verification of Templeton is check verification and check guarantee services. Templeton offers no specific discussion of electronic check conversion or electronic check acceptance, only check guarantee/verification services being performed with the paper check still being required by the merchant to complete the transaction by depositing the paper check at the bank as opposed to the electronic debit recited by claim 11. More specifically, Templeton in view of Funk fails to suggest the invention as recited by claim 11.

Regarding claim 21, Applicants reiterate that there is no motivation to combine the relied upon references to achieve the claimed invention. In addition, the proposed combination still fails to describe or suggest the method of electronic check conversion as recited by claim 21. Specifically, claim 21 recites, among other subject matter, sending an authorization packet including an application version, sending a response packet, and downloading the more current version of the application to the payment terminal from the host. In the Final Office Action mailed August 14, 2002, the Examiner responds to previous arguments by Applicants by stating that "It would have been obvious to one of ordinary skill in the art at the time the invention was made that there would be information transferred between the systems using an application packet." Applicants point out that claim 21 recites specific subject matter that is not repetitive of claim 1, and that cannot be summarily dismissed by the Examiner taking official notice. The Examiner has failed to state any specific ground of rejection for claim 21 other than the taking of official notice. More specifically, Templeton in view of Funk fails to suggest the invention recited by claim 21.

Regarding claim 23, Applicants reiterate that there is no motivation to combine the relied upon references to achieve the claimed invention.

The Examiner has rejected claims 5 and 22 under 35 U.S.C. § 103(a) as being unpatentable over Templeton in view of Funk and further in view of Higashiyama (U.S. Patent No. 5,175,682).

Regarding claim 5, Applicants reiterate that there is no motivation to combine the relied upon references to achieve the claimed invention. Specifically, claim 5 is believed to be patentable for its dependency upon claim 1. Further, Applicants point out that Higashiyama describes a separate printer 203 that is not part of the payment terminal as recited by claim 5.

Regarding claim 22, Applicants reiterate that there is no motivation to combine the relied upon references to achieve the claimed invention. The Examiner states that "it

would have been obvious to one of ordinary skill in the art at the time the invention was made to program the printer to be able to print a money order because in essence, this is just another type of receipt and financial document and can be used by the customer as proof of the transaction." Applicants disagree. The money order is printed for the consumer with a printing device and represents a negotiable instrument that must be paid to order as opposed to being just another receipt. Claim 22 specifically recites printing the money order, capturing an image of the money order, and sending the image of the money order to a host as a receipt for the money order and is believed to be patentable.

The Examiner has rejected claim 8 under 35 U.S.C. § 103(a) as being unpatentable over Templeton in view of Funk and further in view of Hills (U.S. Patent No. 6,164,528). Claim 8 is believed to be patentable for its dependency on claim 1.

The Examiner has rejected claim 10 under 35 U.S.C. § 103(a) as being unpatentable over Templeton in view of Funk and further in view of Harr (U.S. Patent No. 3,599,151). Claim 10 is believed to be patentable for its dependency on claim 1.

The Examiner has rejected claims 13-20 under 35 U.S.C. § 103(a) as being unpatentable over Templeton in view of Funk and further in view of Hills and Higashiyama. Applicants believe that these claims are patentable over the prior art for the reasons given above, including the lack of motivation to combine teachings of Funk with teachings of Templeton to achieve some aspects of the claimed invention. For example, independent claims 13, 14, and 19 each recite an imaging device in a point of sale payment terminal that accepts multiple payment types. Claims 15-18 and 20 are dependent claims and also include the imaging device.

For the reasons discussed above, it is respectfully submitted that claims 1-11 and 13-23 are patentable. Applicants respectfully request that the Examiner withdraw the final rejection of claims 1-11 and 13-23, and allow claims 1-11 and 13-23. Claim 12 has already been allowed.

A check in the amount of \$110.00 is enclosed to cover the petition fee. Please charge any additional fees or credit any overpayments as a result of the filing of this paper to our Deposit Account No. 02-3978.

Respectfully submitted,

RANDY J. TEMPLETON et al.

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Date: November 18, 2002

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